

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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MARGARET ZAVALIDROGA and THOMAS  
ZAVALIDROGA,

Plaintiffs,

vs

6:09-CV-225

JOSEPH S. COTE, III, Individually; JOHN DOE,  
A fictitious name intended to indicate individuals  
unknown at this time; JAMES E. KELLEY; DORIS  
M. KELLEY; DAVID LaPLANTE, Individually, and  
Officially as an Oneida County Sheriff's Deputy;  
GREGORY J. AMOROSO, Individually, and  
Officially; and THE TOWN OF ANNSVILLE,  
A Municipal Entity,

Defendants.

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APPEARANCES:

OF COUNSEL:

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JEFFREY D. BROWN, ESQ.

DAVID N. HURD  
United States District Judge

### **ORDER**

Various motions have been made by the defendants to dismiss the complaint pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6), for lack of subject matter jurisdiction and for failure to state a claim upon which relief can be granted (Docket Nos. 17, 41, and 44). Plaintiffs cross move for permission to serve a second amended complaint (Docket No. 48). Plaintiffs also oppose the defendants' motions (Docket Nos. 49, 54, and 59). Defendants have opposed the motion to amend (Docket No. 57).

Upon a review of all filings, it is clear that there is no subject matter jurisdiction for any of the plaintiffs' federal claims. In fact, those claims are frivolous. Supplemental jurisdiction over the state law claims is declined.

The motion for a second amended complaint is moot.

Therefore, it is

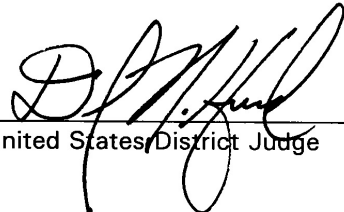
ORDERED, that

1. The complaint is DISMISSED;
2. The federal claims are dismissed with prejudice;
3. The state law claims are dismissed without prejudice; and
4. The motion to amend is DENIED.

The Clerk is directed to enter judgment accordingly.

IT IS SO ORDERED.

Dated: January 19, 2010  
Utica, New York.

  
United States District Judge